

City of Hillsboro Personnel Policy Manual

General Guidelines, Rules,
Standards and Practices

FEDERAL EMERGENCY PAID SICK LEAVE AND EXPANDED FMLA/OFLA POLICY (CORONAVIRUS/COVID-19) Effective April 1, 2020

6. Employee Benefits

6.10 Federal Emergency Paid Sick Leave and Expanded FMLA/OFLA Leave Policy (Coronavirus/COVID-19)

Purpose

In response to changes in federal law (Families First Coronavirus Response Act which includes the Emergency Paid Sick Leave Act and the Emergency Family and Medical Expansion Leave Act) and new regulation relating to Oregon Family Leave Act, the City of Hillsboro is issuing the following temporary policy. This policy goes into effect April 1, 2020, and ends on December 31, 2020, unless specified below or unless the City of Hillsboro announces a continuation of this policy in writing.

With the exception of emergency responder positions for the FMLA leave expansion – School Closure Leave, this policy applies to all represented and non-represented employees, including full-time, part-time, and variable hour employees who will be referred to collectively as "employees" through the remainder of the policy. This policy does not replace any of the City of Hillsboro's leave policies and should be read in conjunction with those policies. For additional information on other leaves of absences available please see the following policies:

[Sickness and Disability Leave 6.3](#)

[FMLA 6.6G](#)

[Temporary Leave Related to an Infectious Disease Outbreak 6.9](#)

Federal Emergency Paid Sick Leave

All employees who fall into one of the Emergency Paid Sick Leave reasons below are entitled to up to 80 hours of paid emergency sick leave. Part-time employees may use their 80 hours of paid emergency sick leave based on their regularly scheduled hours worked. Paid emergency sick leave will be paid at the employee's regular rate of pay.

Employee should use Federal Emergency Paid Sick Leave under this policy before using the City's Temporary Paid Emergency Leave Related to an Infectious Disease Outbreak. Other accrued paid time off should be used only if applicable to the absence type and approved under any of the City's other related policies (i.e. Vacation).

Federal Emergency Paid Sick Leave Guidelines

All employees unable to work (or telecommute) due to one of the following reasons are eligible to utilize Federal Emergency Paid Sick Leave for their regularly scheduled shifts/work and may be expected to provide verification of the need for leave:

1. *Quarantine* - An employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19. This includes shelter-in-place or stay-at-home orders issued by any Federal, Oregon or local government authority that causes employees to be unable to work, even though the employer has work for the employee to do.
2. *Self-Quarantine* - A health care provider has advised an employee to self-quarantine due to concerns related to COVID-19.
3. *Diagnosis or Treatment* - An employee is experiencing symptoms of COVID-19 and is seeking a medical diagnosis or treatment.
4. *Care for a Quarantined Individual* - An employee is caring for an individual, who is subject to a federal, Oregon or local quarantine or isolation order, has been advised by a health care provider to self-quarantine, or who has COVID-19 symptoms. "Individual" means an employee's immediate family member, a person who regularly resides in the Employee's home, or a similar person with whom the Employee has a relationship that creates an expectation that the employee would care for the person if he or she were quarantined or self-quarantined.
5. *Child Care* - An employee is caring for his or her child if the child's school, child care provider or place of care has been closed or is unavailable, due to COVID-19 related issues. This leave is not available if another suitable person will be caring for the child during the period for which the employee takes COVID-19 Sick Leave.
6. *Substantially Similar Care* - to care for a substantially similar condition, as determined by the U.S. Secretary of Health and Human Services at any point between April 1, 2020, and December 31, 2020.

Any unused Federal Emergency Paid Sick Leave will not carry over into 2021 or be paid upon separation.

Definitions

- "Child Care Provider" - A provider who receives compensation for providing child care services on a regular basis. The term includes a center-based child care provider, a group home child care provider, a family child care provider, or other provider of child care services for compensation that is licensed, regulated, or registered under Oregon law. A "child care provider" need not be compensated or licensed if he/she is a family member or friend, such as a neighbor, who regularly cares for the Employee's child.
- "Place of care" - A physical location in which care is provided for the Employee's child while the employee works for the City. Examples include day care facilities, preschools, before and after school care programs, schools, homes, summer camps, summer enrichment programs, and respite care programs.
- "School" means elementary or secondary school. Community colleges, universities, colleges, or other post-secondary schools are not included.
- "Child" - A biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis* who is either under 18 years of age or is 18 years of age or older and "incapable of self-care because of a mental or physical disability" at the time COVID-19 Paid Sick Leave is to commence.

Procedure for Requesting Federal Emergency Paid Sick Leave

All employees requesting Federal Emergency Paid Sick leave are required to promptly notify their Supervisor or the Human Resources Department and complete a request for leave form providing information regarding date(s) for which the leave is requested, the qualifying reason for the leave, and a statement that the employee is unable to work or telework because of the qualifying reason. Additional information will be required for the various qualifying reasons, as follows:

1. *Quarantine* — Provide the name of the government entity that issued the Quarantine or Isolation Order.
2. *Self-Quarantine* — Provide the name of the health care provider who advised the employee to self-quarantine due to concerns related to COVID-19.
3. *Diagnosis or Treatment* — Provide the name of the health care provider from whom the employee sought diagnosis or treatment for COVID-19-related symptoms.
4. *Care for a Quarantined Individual* — Provide the name of the government entity that issued the Quarantine or Isolation Order to which the individual being cared is subject or the name of the health care provider who advised the individual being cared for to self-quarantine due to concerns related to COVID-19.
5. *Child Care* — Provide the name of the son or daughter being cared for, the name of the school, place of care, or child care provider that has closed or become unavailable, and a representation that no other suitable person will be caring for the son or daughter during the period for which the employee takes COVID-19 Sick Leave.
6. *Substantially Similar Care* — Written verification of the employee's need to stay home from work from the employee's health care provider due to care for a "substantially similar" condition identified and announced by the U.S. Secretary for Health and Human Services between April 1, 2020, and December 31, 2020.

Requests to take Federal Emergency Paid Sick Leave on an intermittent basis will be assessed on a case-by-case basis. City of Hillsboro may require Employee to attempt telework on a trial basis before granting a request for intermittent leave. Any agreement regarding intermittent leave will be revoked if, in the City's determination, the arrangement is not meeting City of Hillsboro's needs (the employee will be allowed to take the leave in continuous blocks).

Employees are required to meet all the general request for leave and return to work notifications under the City's Family Medical Leave Policy.

Once Federal Emergency Paid Sick Leave has begun, the employee and Supervisor must determine reasonable procedures for the employee to report periodically on the employee's status and intent to continue to use emergency paid sick leave.

Emergency Family Medical Leave Expansion Act and Oregon Family Leave Act Policy for School Closures

FMLA Leave Expansion – School Closure Leave

Employees who are unable to work (or telecommute) due to a need to care for their child whose school or place of care is closed (or child care provider is unavailable) due to a public health emergency due to COVID-19, are eligible for FMLA Expanded leave, otherwise known as Emergency Family and Medical

Expansion Leave. The leave of absence available under this policy will be referred to as “School Closure Leave”. If not specifically addressed in this policy, all other provisions in the City of Hillsboro’s Family Medical Leave Policy apply.

Eligibility for FMLA Leave Expansion

All eligible employees who have been employed by the City of Hillsboro for at least 30 calendar days immediately prior to the first day of leave are eligible for FMLA - School Closure Leave to address school closures as a result of COVID-19 issues.

Exception

Employees in positions identified as emergency responders are excluded from taking Expanded FMLA - School Closure Leave. For a list of these positions please see Attachment A.

Duration of Expanded FMLA – School Closure Leave

Employees are entitled to use up to 12 weeks of FMLA - School Closure Leave from April 1, 2020, through December 31, 2020, or the amount they have available from their 12 week FMLA allotment in a rolling back calendar year. Part-time employees are entitled to use their School Closure Leave prorated based on their regularly scheduled hours worked for up to the 12 week entitlement. Employees who have already exhausted 12 weeks of FMLA leave during the City of Hillsboro’s rolling back 12 month period may not be eligible for an additional 12 weeks of School Closure Leave.

Pay During Expanded FMLA – School Closure Leave

FMLA Expanded Leave for School Closure is unpaid for the first 10 days. However, employees may use any available accrued leave during this time. The employee may also use Federal Emergency Paid Sick Leave also provided in this policy. After the first 10 days, leave will be paid at 66% (sixty-six percent) of an employee's regular rate of pay for the number of hours the employee would otherwise be scheduled to work. Employees may, but are not required, to use other paid leave to supplemental their lost wages up 100 percent of their base wages, but they will not be paid from school closure leave, federal emergency paid sick and accrued leave for the same hours. Any unused portion of this paid leave for school or child care closures will not carry over to the next year.

Definition

Child: For purposes of the Expanded FMLA Closure Leave, a “child” is a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either

(A) under 18 years of age; or

(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

OFLA Leave Expansion – School Closure Leave

A Temporary Administrative Order from BOLI expands the definition of “sick child leave” under Oregon Family Leave Act (OFLA) to include an absence to care for an employee’s child whose school or place of care has been closed in conjunction with a statewide public health emergency declared by a public health official. The leave of absence available under this OFLA policy will be referred to as “School Closure Leave”. If not specifically addressed in this policy, all other provisions in the City of Hillsboro’s Family Medical Leave Policy apply.

Eligibility for OFLA Leave Expansion – School Closure Leave

All employees who have been employed by the City of Hillsboro for at least 180 days and also work at least an average of 25 hours a week during the 180 days before leave begins are eligible for OFLA Leave Expansion.

Duration of Expanded OFLA – School Closure Leave

Employees are entitled to use up to 12 weeks of OFLA - School Closure leave from March 18, 2020, through September 13, 2020, or the amount they have available from their 12 week OFLA allotment in a rolling back calendar year. Part-time eligible employees are entitled to use their School Closure Leave prorated based on their regularly scheduled hours worked for up to the 12 week entitlement. Employees who have already exhausted 12 weeks of OFLA leave during the City of Hillsboro’s rolling back 12 month period may not be eligible for an additional 12 weeks of School Closure Leave.

When an employee is eligible for both FMLA School Closure Leave and OFLA School Closure Leave, the City will run both leaves (FMLA and OFLA) concurrently, where applicable. The City will apply the law that is most generous to the employee if the School Closure Leave runs concurrently.

Pay During OFLA Leave Expansion – School Closure Leave

Up to 12 weeks of unpaid leave, to be taken any time during the period of March 18, 2020, to September 13, 2020. Employees may utilize any accrued leave bank.

Definition

Child: For purposes of OFLA, “child” includes a biological, adopted, foster or stepchild, the child of a registered same-sex domestic partner or a child with whom the employee is in a relationship of in loco parentis, who is either:

(A) under 18 years of age; or

(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

Procedure for Requesting Expanded FMLA and OFLA - School Closure Leave

All employees requesting School Closure Leave must provide a leave request form stating the need for leave, anticipated duration, child(ren) name(s), name of school, place or care, or child care provider that has closed or become unavailable and a representation that no other suitable person will be

caring for the son or daughter during the period for which the employee takes COVID-19 Sick Leave to the Human Resources Department as soon as practicable. Verbal notice will be accepted until written notice can be provided. Within five business days, after the employee has provided this notice, the Human Resources Department will complete and provide the employee with any Department of Labor (DOL) required notices.

Requests to take School Closure Leave on an intermittent basis will be assessed on a case-by-case basis. City of Hillsboro may require Employee to attempt telework on a trial basis before granting a request for intermittent leave. Any agreement regarding intermittent leave will be revoked if, in the City of Hillsboro's determination, the arrangement is not meeting City's needs (the employee will be allowed to take any remaining time in a continuous block).

On the basis that it does not discriminate against employees on FMLA leave, the City of Hillsboro may require an employee on FMLA leave to report periodically on the employee's status and intent to return to work.

Employee Benefits during Leave

The City of Hillsboro will continue the employee's employee benefits during School Closure Leave at the same level and under the same conditions as if the employee had continued to work. While on paid leave, the City will continue to make payroll deductions to collect the employee's share of the premium. During any unpaid portions of leave, the employee must make premium payment arrangements with the Payroll Department.

If the employee has elected supplemental life insurance, Flexible Spending Account (FSA), or other supplemental insurance, the City will continue making payroll deductions while the employee is on paid leave. During any portion of unpaid leave, the employee may request the continuation of such benefits and pay the employee portion of the premiums, or the City may elect to maintain such benefits during the leave and pay the employee's share of the premium payments. If the employee does not continue these payments, the City may discontinue coverage during the leave. If the employer maintains coverage, the City may recover the costs incurred for paying the employee's share of any premiums, whether or not the employee returns to work.

Employee Status after Leave

Employees returning to work from School Closure Leave will be reinstated to their former position. If the position has been eliminated, the employee may be reassigned to an available equivalent position. Reinstatement is not guaranteed if the position has been eliminated under circumstances where the law does not require reinstatement.

Employees are expected to promptly return to work when the circumstances requiring School Closure Leave have been resolved, even if leave was originally approved for a longer period. If an employee does not return to work at the end of a designated School Closure Leave, reinstatement may not be available unless the law requires otherwise.

Exemptions

The City of Hillsboro may choose to not return certain "key employees" to the same or similar position after a period of FMLA School Closure Leave when doing so will cause substantial and grievous economic

injury to the City's operation and as allowed by law. Key employees will be given written notice at the time FMLA leave is requested of their status as a key employee.

Non-Retaliation

The City prohibits retaliation against any employee who asks about, requests or uses School Closure Leave or Federal Paid Emergency Sick leave. Employees who engage in retaliation will be will be subject to discipline up to and including termination.

Attachment A - City of Hillsboro - Emergency Responder List Based on Job Classification (by Department)

<u>Fire & Rescue - Sworn Personnel</u>
Fire Chief
Deputy Chief - Fire
Fire Division Chief
Crisis Intervention Officer
Fire Battalion Chief - (Shift)
Fire Battalion Chief - (40-Hr)
EMS Training Officer
Fire Training Officer
Fire Inspector II
Fire Inspector I
Fire Lieutenant
Fire Engineer
Firefighter
Fire Logistics Technician
<u>Fire & Rescue - Professional Staff</u>
Emergency Program Manager
Community Risk Reduction Specialist
Public Information Officer
<u>Police - Sworn Personnel</u>
Chief
Deputy Chief
Commander
Lieutenant
Sergeant
Police Officer
<u>Police - Professional Staff</u>
Project Manager
Records Manager
Records Supervisor
Evidence Supervisor
Law Enforcement Analyst
Evidence Tech
Code Compliance Officer
Police Fleet Coordinator
Lead Records Specialist
Records Specialist

<u>Public Works - Administration Personnel</u>
Director
Administrative Support Supervisor
<u>Public Works - Operations & Maintenance</u>
Superintendent
Supervising Electrician
Electrician
M&O Coordinator
Signal Maintenance Technician
Senior M&O Technician
M&O Technician
<u>Public Works - Facilities Operations & Maintenance</u>
M&O Superintendent
Supervising Electrician
Electrician
Plumber
Maintenance Coordinator
Facilities Maintenance Specialist
Sr. Facilities Maintenance Technician
Facilities Maintenance Technician
Custodian / Day Porter
<u>Public Works - Fleet Services</u>
M&O Superintendent
Maintenance Coordinator
Emergency Vehicle Mechanic
Mechanic
<u>Water - Administration Personnel</u>
Director
Administrative Support Supervisor
<u>Water Plant - Operations</u>
Water Treatment Manager
Water Plant Coordinator
Lead Water Plant Operator
Senior Water Plant Operator

Attachment A - City of Hillsboro - Emergency Responder List
Based on Job Classification (by Department)

Water Plant Operator
Senior Facilities Maintenance Technician
WTP Maintenance Coordinator
Electrician
<u>Water Operations - Distribution</u>
Water Operations Manager
Water Distribution Coordinator
Senior Water Distribution Operator
Water Distribution Operator
Supervising Electrician
Maintenance and Operations Technician
Senior Maintenance and Operations Technician
Systems Analyst (Information Services)